

Department of Veterans Affairs

§ 17.32

for the members of the immediate family or legal guardian of the veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran or dependent or survivor of a veteran receiving care under § 17.84(c). For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under § 17.84(c) shall be eligible for the same medical services as a veteran; and

(3) Transportation and incidental expenses for any person entitled to such benefits under the provisions of § 17.143.

(Authority: 38 U.S.C. 1701(6))

(b) *Domiciliary care*. The term *domiciliary care* means the furnishing of a home to a veteran, embracing the furnishing of shelter, food, clothing and other comforts of home, including necessary medical services. The term further includes travel and incidental expenses pursuant to § 17.143.

(Authority: 38 U.S.C. 1701(4))

[23 FR 6498, Aug. 22, 1958, as amended at 24 FR 8326, Oct. 14, 1959; 30 FR 1787, Feb. 9, 1965; 32 FR 6841, Mar. 4, 1967; 32 FR 13813, Oct. 4, 1967; 33 FR 5298, Apr. 3, 1968; 33 FR 19009, Dec. 20, 1968; 34 FR 9339, June 13, 1969; 36 FR 4782, Mar. 12, 1971; 45 FR 6934, Jan. 31, 1980; 47 FR 58246, Dec. 30, 1982; 49 FR 50029, Dec. 26, 1984; 51 FR 25264, July 10, 1986; 54 FR 14648, Apr. 12, 1989; 61 FR 21965, 21966, May 13, 1996; 62 FR 17072, Apr. 9, 1997]

§ 17.31 Duty periods defined.

Definitions of duty periods applicable to eligibility for medical benefits are as follows:

(a)–(c) [Reserved]

(d) *Inactive duty training*. The term *inactive duty training* means: (1) Duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by the Secretary concerned under section 206, title 37 U.S.C., or any other provision of law;

(2) Special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance ac-

tivities of the units to which they are assigned.

(3) Duty (other than full-time duty) for members of the National Guard or Air National Guard of any State under the provisions of law stated in paragraph (c)(3) of this section.

(4) Inactive duty for training does not include work or study performed in connection with correspondence courses, or attendance at an educational institution in an inactive status, or duty performed as a temporary member of the Coast Guard Reserve.

[34 FR 9339, June 13, 1969, as amended at 45 FR 6934, Jan. 31, 1980; 45 FR 43169, June 26, 1980; 48 FR 56580, Dec. 22, 1983; 61 FR 21965, May 13, 1996]

EDITORIAL NOTE: At 61 FR 21965, May 13, 1996, § 17.31 was amended by removing (a), (b) introductory text, (b)(1) through (b)(4), (b)(6), (b)(7) and (c). Text remaining in effect is set forth above.

§ 17.31 Duty periods defined.

Full-time duty as a member of the Women's Army Auxiliary Corps, Women's Reserve of the Navy and Marine Corps and Women's Reserve of the Coast Guard.

[34 FR 9339, June 13, 1969, as amended at 45 FR 6934, Jan. 31, 1980; 45 FR 43169, June 26, 1980; 48 FR 56580, Dec. 22, 1983; 61 FR 21965, May 13, 1996]

EDITORIAL NOTE: At 61 FR 21965, May 13, 1996, § 17.31(b)(5) was redesignated as § 17.31.

PROTECTION OF PATIENT RIGHTS

§ 17.32 Informed consent.

(a) For the purpose of this section, the term:

(1) *Informed consent* means the freely given consent that follows a careful explanation by a practitioner to the patient or the patient's representative of the proposed diagnostic or therapeutic procedure or course of treatment.

(2) *Practitioner* includes any physician, dentist, or health care professional who has been granted specific clinical privileges to perform the diagnostic or therapeutic procedure involved.

(3) *Representative* means an individual, organization or other body authorized to act on behalf of an incompetent patient pursuant to guidelines promulgated by VA.

(b) To the maximum extent practicable, all patient care furnished under title 38 U.S.C., shall be carried out only with the full and informed consent of the patient or subject or, in appropriate cases, a representative thereof. In seeking such consent, the practitioner who has primary responsibility for the patient or who will be performing the particular procedure or providing the treatment must inform the patient in language understandable to the patient (or where appropriate, the patient's representative) of the nature of a proposed procedure or treatment, as well as of the expected benefits; reasonably foreseeable associated risks, complications or side effects; reasonable and available alternatives; and anticipated results of nothing is done. The patient should be given the opportunity to ask questions, to indicate comprehension of the information provided, and to grant permission freely and without any coercion for performance of a procedure or course of treatment, as well as the opportunity to withhold or revoke such permission at any time without prejudice.

(c) The fact that the patient (or a representative) has been provided appropriate information and counseling and has consented to a proposed procedure or course of treatment in accordance with paragraph (b) of this section shall be documented in the patient's medical record.

(d) If a proposed course of treatment or procedure involves approved medical research in whole or in part, the patient or representative shall be advised of this. Informed consent shall be obtained specifically for the administration or performance of that aspect of the treatment or procedure which is identified as involving such research. This consent shall be in addition to the consent to be obtained for the administration or performance of the nonresearch aspect of the treatment or procedure and it shall contain the various elements set forth in paragraph (b) of this section.

(e) The Under Secretary for Health will establish an appropriate method for the periodic review of patients' consent in order to insure compliance with this section and other regulations and

to maintain the protection of the patient's rights.

(Authority: 38 U.S.C. 7331)

[49 FR 9173, Mar. 12, 1984. Redesignated and amended at 61 FR 21965, 21966, May 13, 1996]

§ 17.33 Patients' rights.

(a) *General.* (1) Patients have a right to be treated with dignity in a humane environment that affords them both reasonable protection from harm and appropriate privacy with regard to their personal needs.

(2) Patients have a right to receive, to the extent of eligibility therefor under the law, prompt and appropriate treatment for any physical or emotional disability.

(3) Patients have the right to the least restrictive conditions necessary to achieve treatment purposes.

(4) No patient in the Department of Veterans Affairs medical care system, except as otherwise provided by the applicable State law, shall be denied legal rights solely by virtue of being voluntarily admitted or involuntarily committed. Such legal rights include, but are not limited to, the following:

(i) The right to hold and to dispose of property except as may be limited in accordance with paragraph (c)(2) of this section;

(ii) The right to execute legal instruments (e.g., will);

(iii) The right to enter into contractual relationships;

(iv) The right to register and vote;

(v) The right to marry and to obtain a separation, divorce, or annulment;

(vi) The right to hold a professional, occupational, or vehicle operator's license.

(b) *Residents and inpatients.* Subject to paragraph (c) of this section, patients admitted on a residential or inpatient care basis to the Department of Veterans Affairs medical care system have the following rights:

(1) *Visitations and communications.* Each patient has the right to communicate freely and privately with persons outside the facility, including government officials, attorneys, and clergymen. To facilitate these communications each patient shall be provided the opportunity to meet with visitors during regularly scheduled visiting hours, convenient and reasonable access to